

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: WHITE, James M.

SERIAL NO.: 09/596,370

ART UNIT: 1744

FILED: June 19, 2000

EXAMINER: Chorbaji, M. R.

TITLE: BIOLOGICAL FLUID DISPOSAL SYSTEM

REMARKS ON AMENDMENT "C"

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Office Action of December 16, 2004, having a response being due with a three month extension on June 16, 2005, please consider the following remarks in conjunction with the amendments to the above-identified application as follows:

REMARKS

Upon entry of the present amendments, original Claims 1-20 were previously canceled, and Claims 21-35 remain pending. Independent Claims 21, 29 and 33 have been amended. Dependent Claim 27 has also been amended. Reconsideration of the rejections, in light of the foregoing amendment and present remarks, is respectfully requested. The present amendments have been entered for the purpose of more clearly distinguishing the present invention from the prior art patents.

In the Office Action of December 16, 2004, it was indicated that Claims 21, 27 and 29 were rejected under 35 U.S.C. §112, first paragraph because these claims fail the written description requirement. The specification fails to reasonably convey that the inventor has possession of the

claimed invention at the time of the original filing. Claim 33 is rejected under 35 U.S.C. §112, second paragraph for being indefinite. Claim 27 was objected to for an informality in the language.

Claims 21-25, 29-31 and 33-34 were rejected under 35 U.S.C. §103(a) as being unpatentable over the Jackson patent in view of the Aubrey patent and further in view of the Kern patent. Claims 26-28, 32 and 35 were rejected under 35 U.S.C. §103(a) as being unpatentable over the Jackson patent in view of the Aubrey patent and further in view of the Kern patent and the Griffiths patent.

In response to the Office Action, Applicant has amended the claims so as to comply with the written description requirement and to properly distinguish the present invention from the prior art. Claim 21 has been amended to clarify the valveless connection at a connection point within the housing between the biological fluid line and the disinfectant line and inter-relationship between the flow of disinfectant and the flow of biological fluid. The valveless connection has been modified to recite "at a connection point within the housing" in direct response to the Examiner's rejection for failure to comply with the written description requirement.

The Examiner correctly recognizes that Applicant discloses valves (62 and 54) on the biological fluid line and the disinfectant line within the housing. However, the inventive aspect of the present invention is the valveless connection within the housing at the connection point of the biological fluid line and the disinfectant line. This structural relationship is important because the present invention improves the ability to manufacture the disposal system and to perform maintenance. There is increase efficiency and lower costs because the manufacture and maintenance does not involve opening a housing or mechanical failures within the housing. The valveless relation at the connection point of the biological fluid line and the disinfectant line is significant because the user is no longer able to adjust flow and control mixture as disclosed in the prior art. The system

of the present invention is simpler and easier to operate because fewer variables and adjustments are required to engage and control the system.

With specific regard to the Examiner's rejection, Applicant has sufficiently described and claimed the valveless connection point within the housing of the system. Both Figure 1 and Figure 2, in addition to Page 10 of the specification adequately disclose the valveless junction at the physical connection between the biological fluid line and the disinfectant line. Claim 21 has now been amended to properly claim this subject matter. Similar amendments have been made in Claims 27 and 29 with respect to the clarification of the structure of the valveless connection point characteristic of the present invention. The Examiner has additionally noted that Claim 33 was already amended to include this limitation, and consequently, the 35 U.S.C. §112, first paragraph rejection was not made against Claim 33.

In the present amendment, Claim 33 has been amended to particularly point out and distinctly claim the subject matter. As requested by the Examiner, the term "coincides" has been further described as "coincides in time" such that the flow of the disinfectant line and the biological fluid line occur at the same time. Additionally, Claim 27 was amended to correct the term "communicating" as "communication".

As an overview to the response to the obviousness rejections, Applicant presents the following new arguments against the prior art combinations.

With respect to the independent Claims 21, 29 and 33, Applicant respectfully contends that the Jackson, Aubrey and Kern combination does not make the present invention obvious. The dependent claims should be allowable as dependent from allowed base independent claims. Applicant has not disputed the relatedness of these combined references. It is important to note that

Applicant even provided some of these references in an information disclosure statement and in the discussion of the background art in the specification. Applicant simply believes that the combination of the references still does not disclose the invention and does not make the invention obvious.

In the Official Action, the Jackson patent is relied upon to disclose the structure of the present invention, the Aubrey patent teaches the "pumpless-ness" of the system, and the Kern patent discloses the venturi means. The Jackson patent is most clearly mis-applied to structures of the present invention. The disinfectant line is not disclosed by reference numeral 32 of the Jackson patent. Reference numeral 32 is only an inlet channel for mixing the biological fluid line and the water flow line. The Office Action repeatedly refers to and relies upon "disinfectant line 32", even though the Jackson patent has no disinfectant line. The Jackson patent has a disinfectant reservoir 27, such that the mixture of biological fluid and water is pumped into the reservoir 27. Disinfectant is never independently flowing anywhere or in any line in the Jackson system. The combination of references does not disclose any disinfectant line structure and does not disclose the structural inter-relationships of the disinfectant line claims in present invention. Thus, the combination of prior art cannot make the present invention obvious.

Applicant acknowledges that channel 32 of the Jackson patent is a connection point of the water line 30 and the biological fluid line 38, but this connection point is not the subject matter claimed in the invention. Figure 1 and 2 of the present invention show outlet 22 as analogous to this channel 32 of the Jackson patent element. Outlet 22 is not a part of the inventive features of the present invention.

Furthermore, the Aubrey patent does not disclose a pumpless system as referenced in the Office Action. The cited excerpt of the Aubrey patent refers to a system without "reservoir tanks and

replenisher pumps" (col. 8, ll. 5-6). The Aubrey patent still relies on other pumps to dispense fluids, including a developer bath pump and a fixer bath pump (col. 2, ll. 12-16). There is no suggestion that the fluid pumps are eliminated. Only replenisher pumps are considered optional.

Applicant acknowledges that the Kern patent discloses a venturi effect. However, the Kern patent, and the combination of the Jackson, Aubrey and Kern patents does not disclose or make obvious the specific venturi effect produced by the present invention and particularly claimed in the independent claims. The pump 37 of the Jackson patent being replaced by a venturi effect simply discloses the already known prior art, which is outlet 22 in Figures 1 and 2 of the present invention. The independent claims 21, 29 and 33 now properly claim the structure with connection point at outlet 76 of Figure 2 of the present invention.

As such, the claims 22-25, 30-31 and 34, being dependent upon the independent claims, should also be non-obvious with respect to the prior art combination. With specific regard to the rejection of Claim 24, Applicant emphasizes the particular mis-application of the Jackson patent. It is most likely beyond reasonable interpretation to characterize the macerator 26 element of the Jackson patent as both the disinfectant line 32 and a water line 30. Claim 24 clearly describes separate structures and specific positional relationships that are simply not be made obvious by the single unrelated macerator 26 element of the Jackson patent. There is no suggestion of any of these positional mountings of the different lines and structures in the discussion of reference numeral 26 in combination with all other references.

With respect to the dependent Claims 26-28, 32 and 35, Applicant respectfully contends that the Jackson, Aubrey, Kern and Griffiths combination does not make the present invention obvious. The Griffiths patent only adds the container elements, but this new combination still does not

disclose or even suggest the structures of the base independent claims. The Jackson, Aubrey and Kern patent in combination with the Griffiths patent still do not make the base independent claims obvious. With specific regard to the rejection of Claim 27, the claim language has been amended to properly claim the pipe as the disinfectant line with the valveless connection point within the housing. These limitations on the container connections are not disclosed or suggested by the combination with the Griffiths patent because the Griffiths patent teaches pumps 108 to create the flow of disinfectant. As argued similarly in the previous amendment, the Griffiths patent teaches against the limited pumpless of the Aubrey patent in the combination. The prior art combination is a Frankenstein-like conglomeration of prior art with internal conflicts and inconsistencies. The combination does not coherently combine to clearly disclose an obvious invention. More importantly, the combination does not combine to disclose the present invention as now claimed by the Applicant.

It is important to re-assert that the purpose of the present invention is to provide a convenient and easy unit to install in the hospital environment whereby a disinfectant can be mixed with blood prior to passing the biological fluid to the sewer. It was important to provide a self-regulated system with minimal mechanical and electrical devices. The present invention utilizes a unique system of venturi effect, along with orifice relationships, so as to properly mix the components together. This structure is neither shown nor suggested in the prior art patent combinations. The present invention is a unique solution of reducing as many internal devices and structures as possible and decreasing the need for monitoring and adjustment, while still maintaining controlled mixture of the two fluids. The present invention greatly reduces mechanical failures and cleaning and maintenance time;

however, close attention must be paid to the installation of the system because there are no internal controls to change settings within the housing or at the connection point.

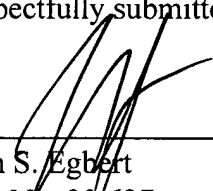
Applicant respectfully contends that the prior art patents in combination fail to show the features the present invention as defined herein.

Based upon the foregoing analysis, Applicant contends that independent Claims 21, 29 and 33 are now in proper condition for allowance. Additionally, those claims which are dependent upon these independent claims should also be in condition for allowance. Reconsideration of the rejections and allowance of the claims at an early date is earnestly solicited. Since no new claims have been added above those originally paid for, no additional fee is required. In the event that the claims are not allowed, Applicant respectfully requests entry of a final action in preparation of formalities for an appeal.

Respectfully submitted,

JUN 16 2005

Date



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